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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.147 OF 1994.
Cuttack, this the 4th day of October, 1999.

Shri Arun Kumar Pradhan.

Applicant.

-Versus-

Union of India & Others.

Respondents.

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? Yes,
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
10.10.99.

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 147 OF 1994.

Cuttack, this the 4th day of October, 1999.

C O R A M :

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. S. NARASIMHAM, MEMBER (JUDICIAL)

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SHRI ARUN KUMAR PRADHAN, 28 years,
S/o. Late Trilochan Pradhan,
At/Po. Madhyapur, Via. Barkota,
Dist. Sambalpur.

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APPLICANT.

By legal practitioner: M/s. Y. Das, N. C. Mohanty, A. N. Patnaik,
Advocates.

-VERSUS-

1. Union of India, represented by the Secretary, Ministry of Communication, New Delhi-110 001.
2. Senior Superintendent of Post Offices, Sambalpur Division, Sambalpur.
3. Sub-Divisional Inspector (Posts), Deogarh Sub Division, At/Po. Deogarh, Dist. Sambalpur.
4. Sri Akshaya Kumar Pradhan, S/o. Bishnu Charan Pradhan, At/Po. Madhyapur, Via. Barkote, Dist. Sambalpur.

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RESPONDENTS.

S. Som By legal practitioner : Mr. A. K. Bose, Senior Standing Counsel (Central).

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application, under section 19 of the Administrative Tribunals Act, 1985, applicant has prayed for a direction to the Departmental Respondents to appoint him to the post of EDBPM, Madhyapur. By way of interim relief, it was prayed that Respondents should be injunctioned from giving any appointment to the post of EDBPM, Madhyapur. In order dated 23.3.1994, prayer for interim relief was rejected subject to the condition that the result of application will govern the future service benefits of the applicant.

2. Applicant's case is that one Shri Bishnu Charan Pradhan was originally working as EDBPM, Madhyapur. Without tendering resignation, he contested the post of SARPANCH and was elected for that post in 1992. Thereafter, for a period of 1/2 months, Bishnu Charan Pradhan functioned as EDBPM, Madhyapur as well as SARPANCH which is not permissible. When the matter came to the light, B.C. Pradhan proceeded on leave inducting his son A.K. Pradhan, Res. No. 4 as the substitute and Res. No. 4 is continuing as substitute till date in clear violation of the Departmental Rules & instructions because under the Rules, an EDBPM, can not avail leave for more than six months. The resignation of Shri B.C. Pradhan was accepted only four months prior to the filing of this Original Application. It is stated that with the acceptance of resignation of B.C. Pradhan, his son can not work as a substitute and a clear vacancy has arisen in the post but notwithstanding this, Res. No. 4 was allowed to continue in the post. Sr. Supdt.

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of Post Offices, Sambalpur, Respondent No. 2 called for names from the Employment Exchange and name of applicant, Res. No. 4 and one more person was sponsored by the Employment Exchange. After verifying all documents, applicant was adjudged to be the most befitting candidate and he was intimated in letter dated 2-8-1993 (Annexure-2) to attend the Office of Res. No. 3 with all original documents. After that applicant was hopeful to get the appointment order but no appointment order was issued to him on the wrong ground that the land deed produced by the applicant was false and fabricated. On coming to know this fact, applicant filed a petition submitting a fresh land deed of 6 decimals but this was not considered. Respondent No. 2 called for second publication calling for names and applicant alongwith Res. No. 4 and another person, applied for the post. In the ensuing selection, Departmental Authorities selected Respondent No. 4. In the context of the above facts, applicant has come up in this original Application with the prayers referred to earlier.

3. Respondents in their counter have stated that B.C. Pradhan, the original incumbent in the post applied for voluntary retirement on 4.4.1992 on invalidation ground and remained on leave from 6-4-1992 by providing Res. No. 4, his son as substitute. B.C. Pradhan was asked to produce medical certificate which was filed on 2.8.1992. Thereafter, Res. No. 2 directed Respondent No. 3 to verify the past work of B.C. Pradhan and simultaneously took up the process of selection of a regular candidate for the post. In the selection, five applicants were there of which two applicants submitted their applications after the last date. Respondent No. 4 was one of the

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candidates who submitted his application after the last date. After due selection, applicant was selected for the post of EDBPM, Madhyapur and he was directed to produce the original documents. After the same was verified it was decided to issue appointment order to applicant and at that time, the service Union filed a complaint petition stating that the land record/deed submitted by applicant was false. Res. No. 3 was directed to verify the matter and a reference was made to the zonal Officer, Rengali Dam Project, Rengalbeda to intimate, if the applicant is actually having the land mentioned by him, in his application, in his name. The zone Officer, Land Acquisition, zone VI Rengalbeda in his letter No. 72, dated 21.10.1993, at Annexure-R-XVI intimated that the recorded tenant Trilochan Pradhan had received compensation towards his land comprising with certain plots and the land has been acquired for the purpose of Rengali Dam Project. While the complaint regarding holding of land by applicant was under enquiry, Respondent No. 4 filed Original Application No. 503 of 1993 before this Tribunal which was disposed of at the stage of admission in order dated 22-9-1993 copy of the order is at Annexure-R-VIII, the Tribunal directed that the representation of B.C. Pradhan for voluntary retirement should be disposed of within fifteen days and then selection process should be taken up and till such time, Res. No. 4 who was the applicant in that case, should continue as substitute in that post. In pursuance of the order of the Tribunal, voluntary retirement of B.C. Pradhan was accepted on 18.10.1993 and the Employment Exchange Officer was requested to sponsor a list of candidates for the post of EDBPM, Madhyapur. In response to the requisition to the Employment Exchange,

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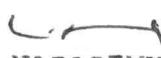
the Employment Exchange Officer, Deogarh in his letter dated 23-11-1993, which is at Annexure-RXI informed that there are no such candidates available in the live-register of E.S.O, Deogarh at present. Thereafter, public notice was issued by Res. No. 2. In response to which, applicant, Res. No. 4 and another person applied for the post. Respondent No. 4 was selected since he had secured more marks in the matriculation examination. On the above grounds, Respondents have opposed the prayer of applicant.

4. When the matter came up for hearing, learned counsel for applicant and his associates were absent nor was any request made on their behalf seeking adjournment. As this is a 1994 matter, it was not possible to drag on the matter indefinitely. We have, therefore, heard Mr. A. K. Bose, learned Senior Standing Counsel (Central) appearing for the Respondents and have also perused the records.

5. From the pleadings of the parties, it appears that in the first selection, applicant was duly selected for the post of EDBPM, Madhyapur but a complaint was received that the land deed given by the applicant was wrong as those lands have already been acquired for the Rengali Dam Project. On enquiry from the concerned Land Acquisition Officer, this allegation was found correct. Applicant, thereafter submitted *J.Som* a further records/land deed showing proof of acquisition of land made after the first selection was over and therefore, for the purpose of his selection acquisition of such land could not be rightly relied upon. Faced with this situation, the Departmental Authorities rightly went in for a fresh selection and invited applications from the open market, the employment

exchange having denied to sponsor any names, Respondent No. 4, who had made an application in the first selection after the last date, and therefore, his case was not considered, applied in the second selection alongwith the applicant and one other person. From the check list enclosed by the Respondents and which is at Annexure -R-XIII, it appears that both the applicant and Respondent No. 4 have passed HSC in compartmental and between the two whereas the applicant got 245 marks and Respondent No. 4 the selected candidate got 268 marks. In view of this, it must be held that Respondent No. 4 has been rightly selected in the second selection.

6. In view of the above, we hold that the applicant has not been able to make out a case for the reliefs claimed by him. The application, is therefore held to be without any merit and the same is rejected. No costs.


(G. NARASIMHAM)
MEMBER(JUDICIAL)


(SOMNATH SOM)
VICE-CHAIRMAN, 99

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